

SENATE BILL NO. 202

INTRODUCED BY WEEDING

BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER

IN THE SENATE

JANUARY 23, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & INDUSTRY.

JANUARY 31, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS. REPORT ADOPTED.

FEBRUARY 2, 1987                   PRINTING REPORT.

FEBRUARY 4, 1987                   SECOND READING, DO PASS.

FEBRUARY 5, 1987                   ENGROSSING REPORT.

FEBRUARY 6, 1987                   THIRD READING, PASSED.  
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON BUSINESS & LABOR.

MARCH 10, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 13, 1987                   SECOND READING, CONCURRED IN.

MARCH 14, 1987                   THIRD READING, CONCURRED IN.  
AYES, 93; NOES, 1.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 20, 1987                   RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 21, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 *Senate* BILL NO. *202*  
 2 INTRODUCED BY *Wudney*  
 3 BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE SECURITIES  
 6 LAWS TO SIMPLIFY AND CLARIFY THEIR ENFORCEMENT WITH RESPECT  
 7 TO COMMODITY INVESTMENT CONTRACTS AND COMMODITY OPTIONS; AND  
 8 AMENDING SECTIONS 30-10-103 AND 30-10-105, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 30-10-103, MCA, is amended to read:  
 12 "30-10-103. Definitions. When used in parts 1 through  
 13 3 of this chapter, unless the context requires otherwise,  
 14 the following definitions apply:

15 (1) "Commissioner" means securities commissioner of  
 16 this state.

17 (2) "Salesman" means any individual other than a  
 18 broker-dealer who represents a broker-dealer or issuer in  
 19 effecting or attempting to effect sales of securities. A  
 20 partner, officer, or director of a broker-dealer or issuer  
 21 is a salesman only if he otherwise comes within this  
 22 definition. "Salesman" does not include an individual who  
 23 represents an issuer in:

24 (a) effecting a transaction in a security exempted by  
 25 subsections (1), (2), (3), (9), (10), (11), or (12) of

1 30-10-104;

2 (b) effecting transactions exempted by 30-10-105; or  
 3 (c) effecting transactions with existing employees,  
 4 partners, or directors of the issuer if no commission or  
 5 other remuneration is paid or given directly or indirectly  
 6 for soliciting any person in this state.

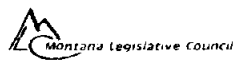
7 (3) "Broker-dealer" means any person engaged in the  
 8 business of effecting transactions in securities for the  
 9 account of others or for his own account. "Broker-dealer"  
 10 does not include:

11 (a) a salesman, issuer, bank, savings institution,  
 12 trust company, or insurance company; or

13 (b) a person who has no place of business in this  
 14 state if he effects transactions in this state exclusively  
 15 with or through the issuers of the securities involved in  
 16 the transactions, other broker-dealers, or banks, savings  
 17 institutions, trust companies, insurance companies,  
 18 investment companies as defined in the Investment Company  
 19 Act of 1940, pension or profit-sharing trusts, or other  
 20 financial institutions or institutional buyers, whether  
 21 acting for themselves or as trustee.

22 (4) "Registered broker-dealer" means a broker-dealer  
 23 registered pursuant to 30-10-201.

24 (5) (a) "Commodity" means, except as otherwise  
 25 specified by rule or order of the commissioner:



1       (i) any agricultural, grain, or livestock product or  
 2 byproduct;  
 3       (ii) any metal or mineral, including a precious metal,  
 4 or any gem or gem stone, whether characterized as precious,  
 5 semiprecious, or otherwise;  
 6       (iii) any fuel, whether liquid, gaseous, or otherwise;  
 7       (iv) foreign currency; and  
 8       (v) all other goods, articles, products, or items of  
 9 any kind.

10       (b) Commodity does not include:  
 11       (i) a numismatic coin with a fair market value at  
 12 least 15% higher than the value of the metal it contains;  
 13       (ii) real property or any timber, agricultural, or  
 14 livestock product grown or raised on real property and  
 15 offered and sold by the owner or lessee of such real  
 16 property; or  
 17       (iii) any work of art offered or sold by an art dealer  
 18 at public auction or offered or sold through a private sale  
 19 by the owner.

20       (6) "Commodity Exchange Act" means the federal statute  
 21 of that name as amended on the effective date of this  
 22 subsection.

23       (7) "Commodity futures trading commission" means the  
 24 independent regulatory agency established by congress to  
 25 administer the Commodity Exchange Act.

1       (8) (a) "Commodity investment contract" means any  
 2 account, agreement, or contract for the purchase or sale,  
 3 primarily for speculation or investment purposes and not for  
 4 use or consumption by the offeree or purchaser, of one or  
 5 more commodities, whether for immediate or subsequent  
 6 delivery or whether delivery is intended by the parties, and  
 7 whether characterized as a cash contract, deferred shipment  
 8 or deferred delivery contract, forward contract, futures  
 9 contract, installment or margin contract, leverage contract,  
 10 or otherwise. Any commodity investment contract offered or  
 11 sold, in the absence of evidence to the contrary, is  
 12 presumed to be offered or sold for speculation or investment  
 13 purposes.

14       (b) A commodity investment contract does not include a  
 15 contract or agreement that requires, and under which the  
 16 purchaser receives, within 28 calendar days after the  
 17 payment in good funds of any portion of the purchase price,  
 18 physical delivery of the total amount of each commodity to  
 19 be purchased under the contract or agreement.

20       (9) (a) "Commodity option" means any account,  
 21 agreement, or contract giving a party to the account,  
 22 agreement, or contract the right but not the obligation to  
 23 purchase or sell one or more commodities or one or more  
 24 commodity contracts, whether characterized as an option,  
 25 privilege, indemnity, bid, offer, put, call, advance

1 guaranty, decline guaranty, or otherwise.

2 (b) The term does not include an option traded on a  
 3 national securities exchange registered with the U.S.  
 4 securities and exchange commission.

5 ~~(5)~~(10) "Guaranteed" means guaranteed as to payment of  
 6 principal, interest, or dividends.

7 ~~(6)~~(11) "Investment adviser" means any person who, for  
 8 compensation, engages in the business of advising others,  
 9 either directly or through publications or writings, as to  
 10 the value of securities or as to the advisability of  
 11 investing in, purchasing, or selling securities or who, for  
 12 compensation and as a part of a regular business, issues or  
 13 promulgates analyses or reports concerning securities.

14 "Investment adviser" does not include:

15 (a) a bank, savings institution, trust company, or  
 16 insurance company;

17 (b) a lawyer, accountant, engineer, or teacher whose  
 18 performance of these services is solely incidental to the  
 19 practice of his profession;

20 (c) a broker-dealer;

21 (d) a publisher of any bona fide newspaper, news  
 22 magazine, or business or financial publication of general,  
 23 regular, and paid circulation;

24 (e) a person whose advice, analyses, or reports relate  
 25 only to securities exempted by 30-10-104(1);

1 (f) a person who has no place of business in this  
 2 state if his only clients in this state are other investment  
 3 advisers, broker-dealers, banks, savings institutions, trust  
 4 companies, insurance companies, investment companies as  
 5 defined in the Investment Company Act of 1940, pension or  
 6 profit-sharing trusts, or other financial institutions or  
 7 institutional buyers, whether acting for themselves or as  
 8 trustees; or

9 (g) such other persons not within the intent of this  
 10 subsection ~~(5)~~ (11) as the commissioner may by rule or order  
 11 designate.

12 ~~(7)~~(12) "Issuer" means any person who issues or  
 13 proposes to issue any security, except that with respect to  
 14 certificates of deposit, voting-trust certificates, or  
 15 collateral-trust certificates or with respect to  
 16 certificates of interest or shares in an unincorporated  
 17 investment trust not having a board of directors (or persons  
 18 performing similar functions) or of the fixed, restricted  
 19 management, or unit type, the term "issuer" means the person  
 20 or persons performing the acts and assuming the duties of  
 21 depositor or manager pursuant to the provisions of the trust  
 22 or other agreement or instrument under which the security is  
 23 issued.

24 ~~(8)~~(13) "Nonissuer" means not directly or indirectly  
 25 for the benefit of the issuer.

1       ~~(9)~~(14) "Person", for the purpose of parts 1 through 3  
2 of this chapter, means an individual, a corporation, a  
3 partnership, an association, a joint-stock company, a trust  
4 where the interests of the beneficiaries are evidenced by a  
5 security, an unincorporated organization, a government, or a  
6 political subdivision of a government.

7       (15) "Precious metal" means the following, in coin,  
8 bullion, or other form:

9       (a) silver;

10       (b) gold;

11       (c) platinum;

12       (d) palladium;

13       (e) copper; and

14       (f) such other items as the commissioner may by rule  
15 or order specify.

16       ~~(10)~~(16) (a) "Sale" or "sell" includes every contract  
17 of sale of, contract to sell, or disposition of a security  
18 or interest in a security for value.

19       (b) "Offer" or "offer to sell" includes every attempt  
20 or offer to dispose of or solicitation of an offer to buy a  
21 security or interest in a security for value.

22       (c) Any security given or delivered with or as a bonus  
23 on account of any purchase of securities or any other thing  
24 is considered to constitute part of the subject of the  
25 purchase and to have been offered and sold for value. A

1       purported gift of assessable stock is considered to involve  
2 an offer and sale. Every sale or offer of a warrant or right  
3 to purchase or subscribe to another security of the same or  
4 another issuer, as well as every sale or offer of a security  
5 which gives the holder a present or future right or  
6 privilege to convert into another security of the same or  
7 another issuer, is considered to include an offer of the  
8 other security.

9       ~~(11)~~(17) "Securities Act of 1933", "Securities Exchange  
10 Act of 1934", "Public Utility Holding Company Act of 1935",  
11 and "Investment Company Act of 1940" mean the federal  
12 statutes of those names as amended before or after July 1,  
13 1961.

14       ~~(12)~~(18) "Security" means any note; stock; treasury  
15 stock; bond; commodity investment contract; commodity  
16 option; debenture; evidence of indebtedness; certificate of  
17 interest or participation in any profit-sharing agreement;  
18 collateral-trust certificate; preorganization certificate or  
19 subscription; transferable shares; investment contract;  
20 voting-trust certificate; certificate of deposit for a  
21 security; certificate of interest or participation in an  
22 oil, gas, or mining title or lease or in payments out of  
23 production under such a title or lease; or, in general, any  
24 interest or instrument commonly known as a security or any  
25 certificate of interest or participation in, temporary or

1 interim certificate for, receipt for, guarantee of, or  
 2 warrant or right to subscribe to or purchase any of the  
 3 foregoing. "Security" does not include any insurance or  
 4 endowment policy or annuity contract under which an  
 5 insurance company promises to pay a sum of money either in a  
 6 lump sum or periodically for life or some other specified  
 7 period.

8 ~~(13)~~(19) "State" means any state, territory, or  
 9 possession of the United States, as well as the District of  
 10 Columbia and Puerto Rico."

11 Section 2. Section 30-10-105, MCA, is amended to read:

12 "30-10-105. Exempt transactions. Except as in this  
 13 section expressly provided, 30-10-201 through 30-10-207  
 14 shall not apply to any of the following transactions:

15 (1) any nonissuer isolated transaction, whether  
 16 effected through a broker-dealer or not;

17 (2) (a) any nonissuer distribution of an outstanding  
 18 security by a broker-dealer registered pursuant to 30-10-201  
 19 if:

20 (i) quotations for the securities to be offered or  
 21 sold (or the securities issuable upon exercise of any  
 22 warrant or right to purchase or subscribe to such  
 23 securities) are reported by the automated quotations system  
 24 operated by the national association of securities dealers,  
 25 inc., (NASDAQ) or by any other quotation system approved by

1 the commissioner by rule; or

2 (ii) the security has a fixed maturity or a fixed  
 3 interest or dividend provision and there has been no default  
 4 during the current fiscal year or within the 3 preceding  
 5 fiscal years, or during the existence of the issuer and any  
 6 predecessors if less than 3 years, in the payment of  
 7 principal, interest, or dividends on the security.

8 (b) The commissioner may by order deny or revoke the  
 9 exemption specified in subsection (2)(a) with respect to a  
 10 specific security. Upon the entry of such an order, the  
 11 commissioner shall promptly notify all registered  
 12 broker-dealers that it has been entered and of the reasons  
 13 therefor and that within 15 days of the receipt of a written  
 14 request the matter will be set down for hearing. If no  
 15 hearing is requested and none is ordered by the  
 16 commissioner, the order will remain in effect until it is  
 17 modified or vacated by the commissioner. If a hearing is  
 18 requested or ordered, the commissioner, after notice of and  
 19 opportunity for hearing to all interested persons, may  
 20 modify or vacate the order or extend it until final  
 21 determination. No order under this subsection may operate  
 22 retroactively. No person may be considered to have violated  
 23 parts 1 through 3 of this chapter by reason of any offer or  
 24 sale effected after the entry of an order under this  
 25 subsection if he sustains the burden of proof that he did

1 not know and in the exercise of reasonable care could not  
2 have known of the order.

3 (3) any nonissuer transaction effected by or through a  
4 registered broker-dealer pursuant to an unsolicited order or  
5 offer to buy, but the commissioner may require that the  
6 customer acknowledge upon a specified form that the sale was  
7 unsolicited and that a signed copy of each form be preserved  
8 by the broker-dealer for a specified period;

9 (4) any transaction between the issuer or other person  
10 on whose behalf the offering is made and an underwriter or  
11 among underwriters;

12 (5) any transaction by an executor, administrator,  
13 sheriff, marshal, receiver, trustee in bankruptcy, guardian,  
14 or conservator in the performance of his official duties as  
15 such;

16 (6) any transaction executed by a bona fide pledgee  
17 without any purpose of evading parts 1 through 3 of this  
18 chapter;

19 (7) any offer or sale to a bank, savings institution,  
20 trust company, insurance company, investment company as  
21 defined in the Investment Company Act of 1940, pension or  
22 profit-sharing trust, or other financial institution or  
23 institutional buyer, or to a broker-dealer, whether the  
24 purchaser is acting for itself or in some fiduciary  
25 capacity;

1 (8) (a) any transaction pursuant to an offer made in  
2 this state directed by the offeror to not more than 10  
3 persons (other than those designated in subsection (7))  
4 during any period of 12 consecutive months, if:

5 (i) the seller reasonably believes that all the buyers  
6 are purchasing for investment; and

7 (ii) no commission or other remuneration is paid or  
8 given directly or indirectly for soliciting any prospective  
9 buyer; provided, however, that a commission may be paid to a  
10 registered broker-dealer if the securities involved are  
11 registered with the United States securities and exchange  
12 commission under the federal Securities Act of 1933, as  
13 amended.

14 (b) For the purpose of the exemption provided for in  
15 subsection (8)(a), an offer to sell is made in this state,  
16 whether or not the offeror or any of the offerees is then  
17 present in this state, if the offer either originates from  
18 this state or is directed by the offeror to this state and  
19 received at the place to which it is directed (or at any  
20 post office in this state in the case of a mailed offer).

21 (9) any offer or sale of a preorganization certificate  
22 or subscription if:

23 (a) no commission or other remuneration is paid or  
24 given directly or indirectly for soliciting any prospective  
25 subscriber;



1 (b) the number of subscribers does not exceed 10; and

2 (c) no payment is made by any subscriber;

3 (10) any transaction pursuant to an offer to existing  
4 security holders of the issuer, including persons who at the  
5 time of the transaction are holders of convertible  
6 securities, nontransferable warrants, or transferable  
7 warrants exercisable within not more than 90 days of their  
8 issuance, if:

9 (a) no commission or other remuneration (other than a  
10 standby commission) is paid or given directly or indirectly  
11 for soliciting any security holder in this state; or

12 (b) the issuer first files a notice specifying the  
13 terms of the offer and the commissioner does not by order  
14 disallow either (a) or (b) of this subsection;

15 (11) any offer (but not a sale) of a security for which  
16 registration statements have been filed under both parts 1  
17 through 3 of this chapter and the Securities Act of 1933 if  
18 no stop order or refusal order is in effect and no public  
19 proceeding or examination looking toward such an order is  
20 pending under either law;

21 (12) any offer (but not a sale) of a security for which  
22 a registration statement has been filed under parts 1  
23 through 3 of this chapter and the commissioner in his  
24 discretion does not disallow the offer in writing within 10  
25 days of such filing;

1 (13) the issuance of any stock dividend, whether the  
2 corporation distributing the dividend is the issuer of the  
3 stock or not, if nothing of value is given by stockholders  
4 for the distribution other than the surrender of a right to  
5 a cash dividend where the stockholder can elect to take a  
6 dividend in cash or stock;

7 (14) any transaction incident to a right of conversion  
8 or a statutory or judicially approved reclassification,  
9 recapitalization, reorganization, quasi-reorganization,  
10 stock split, reverse stock split, merger, consolidation, or  
11 sale of assets;

12 (15) any transaction in compliance with such rules as  
13 the commissioner in his discretion may adopt to serve the  
14 purposes of 30-10-102; or

15 (16) any transaction pursuant to the Montana Capital  
16 Company Act, Title 90, chapter 8, provided that a Montana  
17 capital company must first file all disclosure documents,  
18 along with a consent to service of process, with the state  
19 securities commissioner. The commissioner may not charge a  
20 fee for the filing or deposit.

21 (17) the sale of a commodity investment contract traded  
22 on a commodities exchange recognized by the commissioner at  
23 the time of sale;

24 (18) transaction within the exclusive jurisdiction of  
25 the commodity futures trading commission as granted under

1 the Commodity Exchange Act;  
 2 (19) a transaction that:  
 3 (a) involves the purchase of one or more precious  
 4 metals; and  
 5 (b) requires, and under which the purchaser receives  
 6 within 7 calendar days after payment in good funds of any  
 7 portion of the purchase price, physical delivery of the  
 8 quantity of the precious metals purchased. For the purposes  
 9 of this subsection, physical delivery is considered to have  
 10 occurred if, within the 7-day period, the quantity of  
 11 precious metals, whether in specifically segregated or  
 12 fungible bulk, purchased by such payment is delivered into  
 13 the possession of a depository (other than the seller) that:  
 14 (i) (A) is a financial institution (meaning a bank,  
 15 savings institution, or trust company organized under or  
 16 supervised pursuant to the laws of the United States or of  
 17 this state);  
 18 (B) is a depository the warehouse receipts of which  
 19 are recognized for delivery purposes for any commodity on a  
 20 contract market designated by the commodity futures trading  
 21 commission; or  
 22 (C) is a storage facility licensed by the United  
 23 States or any agency of the United States; and  
 24 (ii) issues, and the purchaser receives, a certificate,  
 25 document of title, confirmation, or other instrument

1 evidencing that such quantity of precious metals has been  
 2 delivered to the depository and is being and will continue  
 3 to be held on the purchaser's behalf, free and clear of all  
 4 liens and encumbrances other than:  
 5 (A) liens of the purchaser;  
 6 (B) tax liens;  
 7 (C) liens agreed to by the purchaser; or  
 8 (D) liens of the depository for fees and expenses that  
 9 previously have been disclosed to the purchaser.  
 10 (20) a transaction involving a commodity investment  
 11 contract solely between persons engaged in producing,  
 12 processing, using commercially, or handling as merchants  
 13 each commodity subject to the contract or any byproduct of  
 14 the commodity."  
 15 NEW SECTION. Section 3. Extension of authority. Any  
 16 existing authority of the securities commissioner to make  
 17 rules on the subject of the provisions of this act is  
 18 extended to the provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB202, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to amend the Securities Laws to simplify and clarify their enforcement with respect to commodity Investment Contracts and Commodity Options.

ASSUMPTIONS:

1. No additional revenue is expected.
2. No additional expenditures anticipated.

FISCAL IMPACT:

None.

David L. Hunter DATE 1/29/87

DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

Cecil Weeding DATE 1/30/87

CECIL WEEDING, PRIMARY SPONSOR

Fiscal Note for SB202, as introduced.

**SB 202**

APPROVED BY COMM. ON  
BUSINESS & INDUSTRY

1 *Senate* BILL NO. *202*  
2 INTRODUCED BY *W. De...*  
3 BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER

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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE SECURITIES  
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14 the following definitions apply:

15 (1) "Commissioner" means securities commissioner of  
16 this state.

17 (2) "Salesman" means any individual other than a  
18 broker-dealer who represents a broker-dealer or issuer in  
19 effecting or attempting to effect sales of securities. A  
20 partner, officer, or director of a broker-dealer or issuer  
21 is a salesman only if he otherwise comes within this  
22 definition. "Salesman" does not include an individual who  
23 represents an issuer in:

24 (a) effecting a transaction in a security exempted by  
25 subsections (1), (2), (3), (9), (10), (11), or (12) of

1 30-10-104;  
2 (b) effecting transactions exempted by 30-10-105; or  
3 (c) effecting transactions with existing employees,  
4 partners, or directors of the issuer if no commission or  
5 other remuneration is paid or given directly or indirectly  
6 for soliciting any person in this state.

7 (3) "Broker-dealer" means any person engaged in the  
8 business of effecting transactions in securities for the  
9 account of others or for his own account. "Broker-dealer"  
10 does not include:

11 (a) a salesman, issuer, bank, savings institution,  
12 trust company, or insurance company; or

13 (b) a person who has no place of business in this  
14 state if he effects transactions in this state exclusively  
15 with or through the issuers of the securities involved in  
16 the transactions, other broker-dealers, or banks, savings  
17 institutions, trust companies, insurance companies,  
18 investment companies as defined in the Investment Company  
19 Act of 1940, pension or profit-sharing trusts, or other  
20 financial institutions or institutional buyers, whether  
21 acting for themselves or as trustee.

22 (4) "Registered broker-dealer" means a broker-dealer  
23 registered pursuant to 30-10-201.

24 (5) (a) "Commodity" means, except as otherwise  
25 specified by rule or order of the commissioner:



1 (i) any agricultural, grain, or livestock product or  
2 byproduct;

3 (ii) any metal or mineral, including a precious metal,  
4 or any gem or gem stone, whether characterized as precious,  
5 semiprecious, or otherwise;

6 (iii) any fuel, whether liquid, gaseous, or otherwise;

7 (iv) foreign currency; and

8 (v) all other goods, articles, products, or items of  
9 any kind.

10 (b) Commodity does not include:

11 (i) a numismatic coin with a fair market value at  
12 least 15% higher than the value of the metal it contains;

13 (ii) real property or any timber, agricultural, or  
14 livestock product grown or raised on real property and  
15 offered and sold by the owner or lessee of such real  
16 property; or

17 (iii) any work of art offered or sold by an art dealer  
18 at public auction or offered or sold through a private sale  
19 by the owner.

20 (6) "Commodity Exchange Act" means the federal statute  
21 of that name as amended on the effective date of this  
22 subsection.

23 (7) "Commodity futures trading commission" means the  
24 independent regulatory agency established by congress to  
25 administer the Commodity Exchange Act.

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3 primarily for speculation or investment purposes and not for  
4 use or consumption by the offeree or purchaser, of one or  
5 more commodities, whether for immediate or subsequent  
6 delivery or whether delivery is intended by the parties, and  
7 whether characterized as a cash contract, deferred shipment  
8 or deferred delivery contract, forward contract, futures  
9 contract, installment or margin contract, leverage contract,  
10 or otherwise. Any commodity investment contract offered or  
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17 payment in good funds of any portion of the purchase price,  
18 physical delivery of the total amount of each commodity to  
19 be purchased under the contract or agreement.

20 (9) (a) "Commodity option" means any account,  
21 agreement, or contract giving a party to the account,  
22 agreement, or contract the right but not the obligation to  
23 purchase or sell one or more commodities or one or more  
24 commodity contracts, whether characterized as an option,  
25 privilege, indemnity, bid, offer, put, call, advance

1 guaranty, decline guaranty, or otherwise.

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 3 national securities exchange registered with the U.S.  
 4 securities and exchange commission.

5 ~~†5†~~(10) "Guaranteed" means guaranteed as to payment of  
 6 principal, interest, or dividends.

7 ~~†6†~~(11) "Investment adviser" means any person who, or  
 8 compensation, engages in the business of advising others,  
 9 either directly or through publications or writings, as to  
 10 the value of securities or as to the advisability of  
 11 investing in, purchasing, or selling securities or who, for  
 12 compensation and as a part of a regular business, issues or  
 13 promulgates analyses or reports concerning securities.  
 14 "Investment adviser" does not include:

15 (a) a bank, savings institution, trust company, or  
 16 insurance company;

17 (b) a lawyer, accountant, engineer, or teacher whose  
 18 performance of these services is solely incidental to the  
 19 practice of his profession;

20 (c) a broker-dealer;

21 (d) a publisher of any bona fide newspaper, news  
 22 magazine, or business or financial publication of general,  
 23 regular, and paid circulation;

24 (e) a person whose advice, analyses, or reports relate  
 25 only to securities exempted by 30-10-104(1);

1 (f) a person who has no place of business in this  
 2 state if his only clients in this state are other investment  
 3 advisers, broker-dealers, banks, savings institutions, trust  
 4 companies, insurance companies, investment companies as  
 5 defined in the Investment Company Act of 1940, pension or  
 6 profit-sharing trusts, or other financial institutions or  
 7 institutional buyers, whether acting for themselves or as  
 8 trustees; or

9 (g) such other persons not within the intent of this  
 10 subsection ~~†5†~~ (11) as the commissioner may by rule or order  
 11 designate.

12 ~~†7†~~(12) "Issuer" means any person who issues or  
 13 proposes to issue any security, except that with respect to  
 14 certificates of deposit, voting-trust certificates, or  
 15 collateral-trust certificates or with respect to  
 16 certificates of interest or shares in an unincorporated  
 17 investment trust not having a board of directors (or persons  
 18 performing similar functions) or of the fixed, restricted  
 19 management, or unit type, the term "issuer" means the person  
 20 or persons performing the acts and assuming the duties of  
 21 depositor or manager pursuant to the provisions of the trust  
 22 or other agreement or instrument under which the security is  
 23 issued.

24 ~~†8†~~(13) "Nonissuer" means not directly or indirectly  
 25 for the benefit of the issuer.

1        ~~(9)~~(14) "Person", for the purpose of parts 1 through 3  
2 of this chapter, means an individual, a corporation, a  
3 partnership, an association, a joint-stock company, a trust  
4 where the interests of the beneficiaries are evidenced by a  
5 security, an unincorporated organization, a government, or a  
6 political subdivision of a government.

7        (15) "Precious metal" means the following, in coin,  
8 bullion, or other form:

9        (a) silver;

10       (b) gold;

11       (c) platinum;

12       (d) palladium;

13       (e) copper; and

14       (f) such other items as the commissioner may by rule  
15 or order specify.

16       ~~(10)~~(16) (a) "Sale" or "sell" includes every contract  
17 of sale of, contract to sell, or disposition of a security  
18 or interest in a security for value.

19       (b) "Offer" or "offer to sell" includes every attempt  
20 or offer to dispose of or solicitation of an offer to buy a  
21 security or interest in a security for value.

22       (c) Any security given or delivered with or as a bonus  
23 on account of any purchase of securities or any other thing  
24 is considered to constitute part of the subject of the  
25 purchase and to have been offered and sold for value. A

1       purported gift of assessable stock is considered to involve  
2 an offer and sale. Every sale or offer of a warrant or right  
3 to purchase or subscribe to another security of the same or  
4 another issuer, as well as every sale or offer of a security  
5 which gives the holder a present or future right or  
6 privilege to convert into another security of the same or  
7 another issuer, is considered to include an offer of the  
8 other security.

9       ~~(11)~~(17) "Securities Act of 1933", "Securities Exchange  
10 Act of 1934", "Public Utility Holding Company Act of 1935",  
11 and "Investment Company Act of 1940" mean the federal  
12 statutes of those names as amended before or after July 1,  
13 1961.

14       ~~(12)~~(18) "Security" means any note; stock; treasury  
15 stock; bond; commodity investment contract; commodity  
16 option; debenture; evidence of indebtedness; certificate of  
17 interest or participation in any profit-sharing agreement;  
18 collateral-trust certificate; preorganization certificate or  
19 subscription; transferable shares; investment contract;  
20 voting-trust certificate; certificate of deposit for a  
21 security; certificate of interest or participation in an  
22 oil, gas, or mining title or lease or in payments out of  
23 production under such a title or lease; or, in general, any  
24 interest or instrument commonly known as a security or any  
25 certificate of interest or participation in, temporary or

1 interim certificate for, receipt for, guarantee of, or  
 2 warrant or right to subscribe to or purchase any of the  
 3 foregoing. "Security" does not include any insurance or  
 4 endowment policy or annuity contract under which an  
 5 insurance company promises to pay a sum of money either in a  
 6 lump sum or periodically for life or some other specified  
 7 period.

8 ~~(13)~~(19) "State" means any state, territory, or  
 9 possession of the United States, as well as the District of  
 10 Columbia and Puerto Rico."

11 Section 2. Section 30-10-105, MCA, is amended to read:

12 "30-10-105. Exempt transactions. Except as in this  
 13 section expressly provided, 30-10-201 through 30-10-207  
 14 shall not apply to any of the following transactions:

15 (1) any nonissuer isolated transaction, whether  
 16 effected through a broker-dealer or not;

17 (2) (a) any nonissuer distribution of an outstanding  
 18 security by a broker-dealer registered pursuant to 30-10-201  
 19 if:

20 (i) quotations for the securities to be offered or  
 21 sold (or the securities issuable upon exercise of any  
 22 warrant or right to purchase or subscribe to such  
 23 securities) are reported by the automated quotations system  
 24 operated by the national association of securities dealers,  
 25 inc., (NASDAQ) or by any other quotation system approved by

1 the commissioner by rule; or

2 (ii) the security has a fixed maturity or a fixed  
 3 interest or dividend provision and there has been no default  
 4 during the current fiscal year or within the 3 preceding  
 5 fiscal years, or during the existence of the issuer and any  
 6 predecessors if less than 3 years, in the payment of  
 7 principal, interest, or dividends on the security.

8 (b) The commissioner may by order deny or revoke the  
 9 exemption specified in subsection (2)(a) with respect to a  
 10 specific security. Upon the entry of such an order, the  
 11 commissioner shall promptly notify all registered  
 12 broker-dealers that it has been entered and of the reasons  
 13 therefor and that within 15 days of the receipt of a written  
 14 request the matter will be set down for hearing. If no  
 15 hearing is requested and none is ordered by the  
 16 commissioner, the order will remain in effect until it is  
 17 modified or vacated by the commissioner. If a hearing is  
 18 requested or ordered, the commissioner, after notice of and  
 19 opportunity for hearing to all interested persons, may  
 20 modify or vacate the order or extend it until final  
 21 determination. No order under this subsection may operate  
 22 retroactively. No person may be considered to have violated  
 23 parts 1 through 3 of this chapter by reason of any offer or  
 24 sale effected after the entry of an order under this  
 25 subsection if he sustains the burden of proof that he did



1 not know and in the exercise of reasonable care could not  
2 have known of the order.

3 (3) any nonissuer transaction effected by or through a  
4 registered broker-dealer pursuant to an unsolicited order or  
5 offer to buy, but the commissioner may require that the  
6 customer acknowledge upon a specified form that the sale was  
7 unsolicited and that a signed copy of each form be preserved  
8 by the broker-dealer for a specified period;

9 (4) any transaction between the issuer or other person  
10 on whose behalf the offering is made and an underwriter or  
11 among underwriters;

12 (5) any transaction by an executor, administrator,  
13 sheriff, marshal, receiver, trustee in bankruptcy, guardian,  
14 or conservator in the performance of his official duties as  
15 such;

16 (6) any transaction executed by a bona fide pledgee  
17 without any purpose of evading parts 1 through 3 of this  
18 chapter;

19 (7) any offer or sale to a bank, savings institution,  
20 trust company, insurance company, investment company as  
21 defined in the Investment Company Act of 1940, pension or  
22 profit-sharing trust, or other financial institution or  
23 institutional buyer, or to a broker-dealer, whether the  
24 purchaser is acting for itself or in some fiduciary  
25 capacity;

1 (8) (a) any transaction pursuant to an offer made in  
2 this state directed by the offeror to not more than 10  
3 persons (other than those designated in subsection (7))  
4 during any period of 12 consecutive months, if:

5 (i) the seller reasonably believes that all the buyers  
6 are purchasing for investment; and

7 (ii) no commission or other remuneration is paid or  
8 given directly or indirectly for soliciting any prospective  
9 buyer; provided, however, that a commission may be paid to a  
10 registered broker-dealer if the securities involved are  
11 registered with the United States securities and exchange  
12 commission under the federal Securities Act of 1933, as  
13 amended.

14 (b) For the purpose of the exemption provided for in  
15 subsection (8)(a), an offer to sell is made in this state,  
16 whether or not the offeror or any of the offerees is then  
17 present in this state, if the offer either originates from  
18 this state or is directed by the offeror to this state and  
19 received at the place to which it is directed (or at any  
20 post office in this state in the case of a mailed offer).

21 (9) any offer or sale of a preorganization certificate  
22 or subscription if:

23 (a) no commission or other remuneration is paid or  
24 given directly or indirectly for soliciting any prospective  
25 subscriber;

1 (b) the number of subscribers does not exceed 10; and

2 (c) no payment is made by any subscriber;

3 (10) any transaction pursuant to an offer to existing  
4 security holders of the issuer, including persons who at the  
5 time of the transaction are holders of convertible  
6 securities, nontransferable warrants, or transferable  
7 warrants exercisable within not more than 90 days of their  
8 issuance, if:

9 (a) no commission or other remuneration (other than a  
10 standby commission) is paid or given directly or indirectly  
11 for soliciting any security holder in this state; or

12 (b) the issuer first files a notice specifying the  
13 terms of the offer and the commissioner does not by order  
14 disallow either (a) or (b) of this subsection;

15 (11) any offer (but not a sale) of a security for which  
16 registration statements have been filed under both parts 1  
17 through 3 of this chapter and the Securities Act of 1933 if  
18 no stop order or refusal order is in effect and no public  
19 proceeding or examination looking toward such an order is  
20 pending under either law;

21 (12) any offer (but not a sale) of a security for which  
22 a registration statement has been filed under parts 1  
23 through 3 of this chapter and the commissioner in his  
24 discretion does not disallow the offer in writing within 10  
25 days of such filing;

1 (13) the issuance of any stock dividend, whether the  
2 corporation distributing the dividend is the issuer of the  
3 stock or not, if nothing of value is given by stockholders  
4 for the distribution other than the surrender of a right to  
5 a cash dividend where the stockholder can elect to take a  
6 dividend in cash or stock;

7 (14) any transaction incident to a right of conversion  
8 or a statutory or judicially approved reclassification,  
9 recapitalization, reorganization, quasi-reorganization,  
10 stock split, reverse stock split, merger, consolidation, or  
11 sale of assets;

12 (15) any transaction in compliance with such rules as  
13 the commissioner in his discretion may adopt to serve the  
14 purposes of 30-10-102; or

15 (16) any transaction pursuant to the Montana Capital  
16 Company Act, Title 90, chapter 8, provided that a Montana  
17 capital company must first file all disclosure documents,  
18 along with a consent to service of process, with the state  
19 securities commissioner. The commissioner may not charge a  
20 fee for the filing or deposit.

21 (17) the sale of a commodity investment contract traded  
22 on a commodities exchange recognized by the commissioner at  
23 the time of sale;

24 (18) transaction within the exclusive jurisdiction of  
25 the commodity futures trading commission as granted under

1 the Commodity Exchange Act;  
 2 (19) a transaction that:  
 3 (a) involves the purchase of one or more precious  
 4 metals; and  
 5 (b) requires, and under which the purchaser receives  
 6 within 7 calendar days after payment in good funds of any  
 7 portion of the purchase price, physical delivery of the  
 8 quantity of the precious metals purchased. For the purposes  
 9 of this subsection, physical delivery is considered to have  
 10 occurred if, within the 7-day period, the quantity of  
 11 precious metals, whether in specifically segregated or  
 12 fungible bulk, purchased by such payment is delivered into  
 13 the possession of a depository (other than the seller) that:  
 14 (i) (A) is a financial institution (meaning a bank,  
 15 savings institution, or trust company organized under or  
 16 supervised pursuant to the laws of the United States or of  
 17 this state);  
 18 (B) is a depository the warehouse receipts of which  
 19 are recognized for delivery purposes for any commodity on a  
 20 contract market designated by the commodity futures trading  
 21 commission; or  
 22 (C) is a storage facility licensed by the United  
 23 States or any agency of the United States; and  
 24 (ii) issues, and the purchaser receives, a certificate,  
 25 document of title, confirmation, or other instrument

1 evidencing that such quantity of precious metals has been  
 2 delivered to the depository and is being and will continue  
 3 to be held on the purchaser's behalf, free and clear of all  
 4 liens and encumbrances other than:  
 5 (A) liens of the purchaser;  
 6 (B) tax liens;  
 7 (C) liens agreed to by the purchaser; or  
 8 (D) liens of the depository for fees and expenses that  
 9 previously have been disclosed to the purchaser.  
 10 (20) a transaction involving a commodity investment  
 11 contract solely between persons engaged in producing,  
 12 processing, using commercially, or handling as merchants  
 13 each commodity subject to the contract or any byproduct of  
 14 the commodity."  
 15 NEW SECTION. Section 3. Extension of authority. Any  
 16 existing authority of the securities commissioner to make  
 17 rules on the subject of the provisions of this act is  
 18 extended to the provisions of this act.

-End-

1 Senate BILL NO. 202  
 2 INTRODUCED BY W. ...  
 3 BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE SECURITIES  
 6 LAWS TO SIMPLIFY AND CLARIFY THEIR ENFORCEMENT WITH RESPECT  
 7 TO COMMODITY INVESTMENT CONTRACTS AND COMMODITY OPTIONS; AND  
 8 AMENDING SECTIONS 30-10-103 AND 30-10-105, MCA."  
 9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 30-10-103, MCA, is amended to read:  
 12 "30-10-103. Definitions. When used in parts 1 through  
 13 3 of this chapter, unless the context requires otherwise,  
 14 the following definitions apply:

15 (1) "Commissioner" means securities commissioner of  
 16 this state.

17 (2) "Salesman" means any individual other than a  
 18 broker-dealer who represents a broker-dealer or issuer in  
 19 effecting or attempting to effect sales of securities. A  
 20 partner, officer, or director of a broker-dealer or issuer  
 21 is a salesman only if he otherwise comes within this  
 22 definition. "Salesman" does not include an individual who  
 23 represents an issuer in:

24 (a) effecting a transaction in a security exempted by  
 25 subsections (1), (2), (3), (9), (10), (11), or (12) of

1 30-10-104;  
 2 (b) effecting transactions exempted by 30-10-105; or  
 3 (c) effecting transactions with existing employees,  
 4 partners, or directors of the issuer if no commission or  
 5 other remuneration is paid or given directly or indirectly  
 6 for soliciting any person in this state.

7 (3) "Broker-dealer" means any person engaged in the  
 8 business of effecting transactions in securities for the  
 9 account of others or for his own account. "Broker-dealer"  
 10 does not include:

11 (a) a salesman, issuer, bank, savings institution,  
 12 trust company, or insurance company; or

13 (b) a person who has no place of business in this  
 14 state if he effects transactions in this state exclusively  
 15 with or through the issuers of the securities involved in  
 16 the transactions, other broker-dealers, or banks, savings  
 17 institutions, trust companies, insurance companies,  
 18 investment companies as defined in the Investment Company  
 19 Act of 1940, pension or profit-sharing trusts, or other  
 20 financial institutions or institutional buyers, whether  
 21 acting for themselves or as trustee.

22 (4) "Registered broker-dealer" means a broker-dealer  
 23 registered pursuant to 30-10-201.

24 (5) (a) "Commodity" means, except as otherwise  
 25 specified by rule or order of the commissioner:



1 (i) any agricultural, grain, or livestock product or  
2 byproduct;

3 (ii) any metal or mineral, including a precious metal,  
4 or any gem or gem stone, whether characterized as precious,  
5 semiprecious, or otherwise;

6 (iii) any fuel, whether liquid, gaseous, or otherwise;

7 (iv) foreign currency; and

8 (v) all other goods, articles, products, or items of  
9 any kind.

10 (b) Commodity does not include:

11 (i) a numismatic coin with a fair market value at  
12 least 15% higher than the value of the metal it contains;

13 (ii) real property or any timber, agricultural, or  
14 livestock product grown or raised on real property and  
15 offered and sold by the owner or lessee of such real  
16 property; or

17 (iii) any work of art offered or sold by an art dealer  
18 at public auction or offered or sold through a private sale  
19 by the owner.

20 (6) "Commodity Exchange Act" means the federal statute  
21 of that name as amended on the effective date of this  
22 subsection.

23 (7) "Commodity futures trading commission" means the  
24 independent regulatory agency established by congress to  
25 administer the Commodity Exchange Act.

1 (8) (a) "Commodity investment contract" means any  
2 account, agreement, or contract for the purchase or sale,  
3 primarily for speculation or investment purposes and not for  
4 use or consumption by the offeree or purchaser, of one or  
5 more commodities, whether for immediate or subsequent  
6 delivery or whether delivery is intended by the parties, and  
7 whether characterized as a cash contract, deferred shipment  
8 or deferred delivery contract, forward contract, futures  
9 contract, installment or margin contract, leverage contract,  
10 or otherwise. Any commodity investment contract offered or  
11 sold, in the absence of evidence to the contrary, is  
12 presumed to be offered or sold for speculation or investment  
13 purposes.

14 (b) A commodity investment contract does not include a  
15 contract or agreement that requires, and under which the  
16 purchaser receives, within 28 calendar days after the  
17 payment in good funds of any portion of the purchase price,  
18 physical delivery of the total amount of each commodity to  
19 be purchased under the contract or agreement.

20 (9) (a) "Commodity option" means any account,  
21 agreement, or contract giving a party to the account,  
22 agreement, or contract the right but not the obligation to  
23 purchase or sell one or more commodities or one or more  
24 commodity contracts, whether characterized as an option,  
25 privilege, indemnity, bid, offer, put, call, advance

1 guaranty, decline guaranty, or otherwise.

2 (b) The term does not include an option traded on a  
3 national securities exchange registered with the U.S.  
4 securities and exchange commission.

5 ~~(5)~~(10) "Guaranteed" means guaranteed as to payment of  
6 principal, interest, or dividends.

7 ~~(6)~~(11) "Investment adviser" means any person who, for  
8 compensation, engages in the business of advising others,  
9 either directly or through publications or writings, as to  
10 the value of securities or as to the advisability of  
11 investing in, purchasing, or selling securities or who, for  
12 compensation and as a part of a regular business, issues or  
13 promulgates analyses or reports concerning securities.  
14 "Investment adviser" does not include:

15 (a) a bank, savings institution, trust company, or  
16 insurance company;

17 (b) a lawyer, accountant, engineer, or teacher whose  
18 performance of these services is solely incidental to the  
19 practice of his profession;

20 (c) a broker-dealer;

21 (d) a publisher of any bona fide newspaper, news  
22 magazine, or business or financial publication of general,  
23 regular, and paid circulation;

24 (e) a person whose advice, analyses, or reports relate  
25 only to securities exempted by 30-10-104(1);

1 (f) a person who has no place of business in this  
2 state if his only clients in this state are other investment  
3 advisers, broker-dealers, banks, savings institutions, trust  
4 companies, insurance companies, investment companies as  
5 defined in the Investment Company Act of 1940, pension or  
6 profit-sharing trusts, or other financial institutions or  
7 institutional buyers, whether acting for themselves or as  
8 trustees; or

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10 subsection ~~(5)~~ (11) as the commissioner may by rule or order  
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13 proposes to issue any security, except that with respect to  
14 certificates of deposit, voting-trust certificates, or  
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16 certificates of interest or shares in an unincorporated  
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18 performing similar functions) or of the fixed, restricted  
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20 or persons performing the acts and assuming the duties of  
21 depositor or manager pursuant to the provisions of the trust  
22 or other agreement or instrument under which the security is  
23 issued.

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25 for the benefit of the issuer.

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 2 of this chapter, means an individual, a corporation, a  
 3 partnership, an association, a joint-stock company, a trust  
 4 where the interests of the beneficiaries are evidenced by a  
 5 security, an unincorporated organization, a government, or a  
 6 political subdivision of a government.

7        (15) "Precious metal" means the following, in coin,  
 8 bullion, or other form:

9        (a) silver;

10       (b) gold;

11       (c) platinum;

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 20 or offer to dispose of or solicitation of an offer to buy a  
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9       ~~(11)~~(17) "Securities Act of 1933", "Securities Exchange  
 10 Act of 1934", "Public Utility Holding Company Act of 1935",  
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 17 interest or participation in any profit-sharing agreement;  
 18 collateral-trust certificate; preorganization certificate or  
 19 subscription; transferable shares; investment contract;  
 20 voting-trust certificate; certificate of deposit for a  
 21 security; certificate of interest or participation in an  
 22 oil, gas, or mining title or lease or in payments out of  
 23 production under such a title or lease; or, in general, any  
 24 interest or instrument commonly known as a security or any  
 25 certificate of interest or participation in, temporary or

1 interim certificate for, receipt for, guarantee of, or  
 2 warrant or right to subscribe to or purchase any of the  
 3 foregoing. "Security" does not include any insurance or  
 4 endowment policy or annuity contract under which an  
 5 insurance company promises to pay a sum of money either in a  
 6 lump sum or periodically for life or some other specified  
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 16 effected through a broker-dealer or not;

17 (2) (a) any nonissuer distribution of an outstanding  
 18 security by a broker-dealer registered pursuant to 30-10-201  
 19 if:

20 (i) quotations for the securities to be offered or  
 21 sold (or the securities issuable upon exercise of any  
 22 warrant or right to purchase or subscribe to such  
 23 securities) are reported by the automated quotations system  
 24 operated by the national association of securities dealers,  
 25 inc., (NASDAQ) or by any other quotation system approved by

1 the commissioner by rule; or

2 (ii) the security has a fixed maturity or a fixed  
 3 interest or dividend provision and there has been no default  
 4 during the current fiscal year or within the 3 preceding  
 5 fiscal years, or during the existence of the issuer and any  
 6 predecessors if less than 3 years, in the payment of  
 7 principal, interest, or dividends on the security.

8 (b) The commissioner may by order deny or revoke the  
 9 exemption specified in subsection (2)(a) with respect to a  
 10 specific security. Upon the entry of such an order, the  
 11 commissioner shall promptly notify all registered  
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 15 hearing is requested and none is ordered by the  
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 17 modified or vacated by the commissioner. If a hearing is  
 18 requested or ordered, the commissioner, after notice of and  
 19 opportunity for hearing to all interested persons, may  
 20 modify or vacate the order or extend it until final  
 21 determination. No order under this subsection may operate  
 22 retroactively. No person may be considered to have violated  
 23 parts 1 through 3 of this chapter by reason of any offer or  
 24 sale effected after the entry of an order under this  
 25 subsection if he sustains the burden of proof that he did



1 not know and in the exercise of reasonable care could not  
2 have known of the order.

3 (3) any nonissuer transaction effected by or through a  
4 registered broker-dealer pursuant to an unsolicited order or  
5 offer to buy, but the commissioner may require that the  
6 customer acknowledge upon a specified form that the sale was  
7 unsolicited and that a signed copy of each form be preserved  
8 by the broker-dealer for a specified period;

9 (4) any transaction between the issuer or other person  
10 on whose behalf the offering is made and an underwriter or  
11 among underwriters;

12 (5) any transaction by an executor, administrator,  
13 sheriff, marshal, receiver, trustee in bankruptcy, guardian,  
14 or conservator in the performance of his official duties as  
15 such;

16 (6) any transaction executed by a bona fide pledgee  
17 without any purpose of evading parts 1 through 3 of this  
18 chapter;

19 (7) any offer or sale to a bank, savings institution,  
20 trust company, insurance company, investment company as  
21 defined in the Investment Company Act of 1940, pension or  
22 profit-sharing trust, or other financial institution or  
23 institutional buyer, or to a broker-dealer, whether the  
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5 (i) the seller reasonably believes that all the buyers  
6 are purchasing for investment; and

7 (ii) no commission or other remuneration is paid or  
8 given directly or indirectly for soliciting any prospective  
9 buyer; provided, however, that a commission may be paid to a  
10 registered broker-dealer if the securities involved are  
11 registered with the United States securities and exchange  
12 commission under the federal Securities Act of 1933, as  
13 amended.

14 (b) For the purpose of the exemption provided for in  
15 subsection (8)(a), an offer to sell is made in this state,  
16 whether or not the offeror or any of the offerees is then  
17 present in this state, if the offer either originates from  
18 this state or is directed by the offeror to this state and  
19 received at the place to which it is directed (or at any  
20 post office in this state in the case of a mailed offer).

21 (9) any offer or sale of a preorganization certificate  
22 or subscription if:

23 (a) no commission or other remuneration is paid or  
24 given directly or indirectly for soliciting any prospective  
25 subscriber;

1 (b) the number of subscribers does not exceed 10; and

2 (c) no payment is made by any subscriber;

3 (10) any transaction pursuant to an offer to existing  
4 security holders of the issuer, including persons who at the  
5 time of the transaction are holders of convertible  
6 securities, nontransferable warrants, or transferable  
7 warrants exercisable within not more than 90 days of their  
8 issuance, if:

9 (a) no commission or other remuneration (other than a  
10 standby commission) is paid or given directly or indirectly  
11 for soliciting any security holder in this state; or

12 (b) the issuer first files a notice specifying the  
13 terms of the offer and the commissioner does not by order  
14 disallow either (a) or (b) of this subsection;

15 (11) any offer (but not a sale) of a security for which  
16 registration statements have been filed under both parts 1  
17 through 3 of this chapter and the Securities Act of 1933 if  
18 no stop order or refusal order is in effect and no public  
19 proceeding or examination looking toward such an order is  
20 pending under either law;

21 (12) any offer (but not a sale) of a security for which  
22 a registration statement has been filed under parts 1  
23 through 3 of this chapter and the commissioner in his  
24 discretion does not disallow the offer in writing within 10  
25 days of such filing;

1 (13) the issuance of any stock dividend, whether the  
2 corporation distributing the dividend is the issuer of the  
3 stock or not, if nothing of value is given by stockholders  
4 for the distribution other than the surrender of a right to  
5 a cash dividend where the stockholder can elect to take a  
6 dividend in cash or stock;

7 (14) any transaction incident to a right of conversion  
8 or a statutory or judicially approved reclassification,  
9 recapitalization, reorganization, quasi-reorganization,  
10 stock split, reverse stock split, merger, consolidation, or  
11 sale of assets;

12 (15) any transaction in compliance with such rules as  
13 the commissioner in his discretion may adopt to serve the  
14 purposes of 30-10-102; or

15 (16) any transaction pursuant to the Montana Capital  
16 Company Act, Title 90, chapter 8, provided that a Montana  
17 capital company must first file all disclosure documents,  
18 along with a consent to service of process, with the state  
19 securities commissioner. The commissioner may not charge a  
20 fee for the filing or deposit.

21 (17) the sale of a commodity investment contract traded  
22 on a commodities exchange recognized by the commissioner at  
23 the time of sale;

24 (18) transaction within the exclusive jurisdiction of  
25 the commodity futures trading commission as granted under

1 the Commodity Exchange Act;  
 2 (19) a transaction that:  
 3 (a) involves the purchase of one or more precious  
 4 metals; and  
 5 (b) requires, and under which the purchaser receives  
 6 within 7 calendar days after payment in good funds of any  
 7 portion of the purchase price, physical delivery of the  
 8 quantity of the precious metals purchased. For the purposes  
 9 of this subsection, physical delivery is considered to have  
 10 occurred if, within the 7-day period, the quantity of  
 11 precious metals, whether in specifically segregated or  
 12 fungible bulk, purchased by such payment is delivered into  
 13 the possession of a depository (other than the seller) that:  
 14 (i) (A) is a financial institution (meaning a bank,  
 15 savings institution, or trust company organized under or  
 16 supervised pursuant to the laws of the United States or of  
 17 this state);  
 18 (B) is a depository the warehouse receipts of which  
 19 are recognized for delivery purposes for any commodity on a  
 20 contract market designated by the commodity futures trading  
 21 commission; or  
 22 (C) is a storage facility licensed by the United  
 23 States or any agency of the United States; and  
 24 (ii) issues, and the purchaser receives, a certificate,  
 25 document of title, confirmation, or other instrument

1 evidencing that such quantity of precious metals has been  
 2 delivered to the depository and is being and will continue  
 3 to be held on the purchaser's behalf, free and clear of all  
 4 liens and encumbrances other than:  
 5 (A) liens of the purchaser;  
 6 (B) tax liens;  
 7 (C) liens agreed to by the purchaser; or  
 8 (D) liens of the depository for fees and expenses that  
 9 previously have been disclosed to the purchaser.  
 10 (20) a transaction involving a commodity investment  
 11 contract solely between persons engaged in producing,  
 12 processing, using commercially, or handling as merchants  
 13 each commodity subject to the contract or any byproduct of  
 14 the commodity."  
 15 NEW SECTION. Section 3. Extension of authority. Any  
 16 existing authority of the securities commissioner to make  
 17 rules on the subject of the provisions of this act is  
 18 extended to the provisions of this act.

-End-

1                   SENATE BILL NO. 202  
 2                   INTRODUCED BY WEEDING  
 3 BY REQUEST OF THE STATE AUDITOR AND SECURITIES COMMISSIONER  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE SECURITIES  
 6 LAWS TO SIMPLIFY AND CLARIFY THEIR ENFORCEMENT WITH RESPECT  
 7 TO COMMODITY INVESTMENT CONTRACTS AND COMMODITY OPTIONS; AND  
 8 AMENDING SECTIONS 30-10-103 AND 30-10-105, MCA."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11       Section 1. Section 30-10-103, MCA, is amended to read:  
 12       "30-10-103. Definitions. When used in parts 1 through  
 13 3 of this chapter, unless the context requires otherwise,  
 14 the following definitions apply:

15       (1) "Commissioner" means securities commissioner of  
 16 this state.

17       (2) "Salesman" means any individual other than a  
 18 broker-dealer who represents a broker-dealer or issuer in  
 19 effecting or attempting to effect sales of securities. A  
 20 partner, officer, or director of a broker-dealer or issuer  
 21 is a salesman only if he otherwise comes within this  
 22 definition. "Salesman" does not include an individual who  
 23 represents an issuer in:

24       (a) effecting a transaction in a security exempted by  
 25 subsections (1), (2), (3), (9), (10), (11), or (12) of

1 30-10-104;

2       (b) effecting transactions exempted by 30-10-105; or  
 3       (c) effecting transactions with existing employees,  
 4 partners, or directors of the issuer if no commission or  
 5 other remuneration is paid or given directly or indirectly  
 6 for soliciting any person in this state.

7       (3) "Broker-dealer" means any person engaged in the  
 8 business of effecting transactions in securities for the  
 9 account of others or for his own account. "Broker-dealer"  
 10 does not include:

11       (a) a salesman, issuer, bank, savings institution,  
 12 trust company, or insurance company; or

13       (b) a person who has no place of business in this  
 14 state if he effects transactions in this state exclusively  
 15 with or through the issuers of the securities involved in  
 16 the transactions, other broker-dealers, or banks, savings  
 17 institutions, trust companies, insurance companies,  
 18 investment companies as defined in the Investment Company  
 19 Act of 1940, pension or profit-sharing trusts, or other  
 20 financial institutions or institutional buyers, whether  
 21 acting for themselves or as trustee.

22       (4) "Registered broker-dealer" means a broker-dealer  
 23 registered pursuant to 30-10-201.

24       (5) (a) "Commodity" means ~~---except---as---otherwise~~  
 25 specified-by-rule-or-order-of-the-commissioner:



1 (i) any agricultural, grain, or livestock product or  
2 byproduct;

3 (ii) any metal or mineral, including a precious metal,  
4 or any gem or gem stone, whether characterized as precious,  
5 semiprecious, or otherwise;

6 (iii) any fuel, whether liquid, gaseous, or otherwise;

7 (iv) foreign currency; and

8 (v) all other goods, articles, products, or items of  
9 any kind.

10 (b) Commodity does not include:

11 (i) a numismatic coin with a fair market value at  
12 least 15% higher than the value of the metal it contains;

13 (ii) real property or any timber, agricultural, or  
14 livestock product grown or raised on real property and  
15 offered and sold by the owner or lessee of such real  
16 property; or

17 (iii) any work of art offered or sold by an art dealer  
18 at public auction or offered or sold through a private sale  
19 by the owner.

20 (6) "Commodity Exchange Act" means the federal statute  
21 of that name as amended on the effective date of this  
22 subsection.

23 (7) "Commodity futures trading commission" means the  
24 independent regulatory agency established by congress to  
25 administer the Commodity Exchange Act.

1 (8) (a) "Commodity investment contract" means any  
2 account, agreement, or contract for the purchase or sale,  
3 primarily for speculation or investment purposes and not for  
4 use or consumption by the offeree or purchaser, of one or  
5 more commodities, whether for immediate or subsequent  
6 delivery or whether delivery is intended by the parties, and  
7 whether characterized as a cash contract, deferred shipment  
8 or deferred delivery contract, forward contract, futures  
9 contract, installment or margin contract, leverage contract,  
10 or otherwise. Any commodity investment contract offered or  
11 sold, in the absence of evidence to the contrary, is  
12 presumed to be offered or sold for speculation or investment  
13 purposes.

14 (b) A commodity investment contract does not include a  
15 contract or agreement that requires, and under which the  
16 purchaser receives, within 28 calendar days after the  
17 payment in good funds of any portion of the purchase price,  
18 physical delivery of the total amount of each commodity to  
19 be purchased under the contract or agreement.

20 (9) (a) "Commodity option" means any account,  
21 agreement, or contract giving a party to the account,  
22 agreement, or contract the right but not the obligation to  
23 purchase or sell one or more commodities or one or more  
24 commodity contracts, whether characterized as an option,  
25 privilege, indemnity, bid, offer, put, call, advance

1 guaranty, decline guaranty, or otherwise.

2 (b) The term does not include an option traded on a  
 3 national securities exchange registered with the U.S.  
 4 securities and exchange commission.

5 ~~(5)~~(10) "Guaranteed" means guaranteed as to payment of  
 6 principal, interest, or dividends.

7 ~~(6)~~(11) "Investment adviser" means any person who, for  
 8 compensation, engages in the business of advising others,  
 9 either directly or through publications or writings, as to  
 10 the value of securities or as to the advisability of  
 11 investing in, purchasing, or selling securities or who, for  
 12 compensation and as a part of a regular business, issues or  
 13 promulgates analyses or reports concerning securities.

14 "Investment adviser" does not include:

15 (a) a bank, savings institution, trust company, or  
 16 insurance company;

17 (b) a lawyer, accountant, engineer, or teacher whose  
 18 performance of these services is solely incidental to the  
 19 practice of his profession;

20 (c) a broker-dealer;

21 (d) a publisher of any bona fide newspaper, news  
 22 magazine, or business or financial publication of general,  
 23 regular, and paid circulation;

24 (e) a person whose advice, analyses, or reports relate  
 25 only to securities exempted by 30-10-104(1);

1 (f) a person who has no place of business in this  
 2 state if his only clients in this state are other investment  
 3 advisers, broker-dealers, banks, savings institutions, trust  
 4 companies, insurance companies, investment companies as  
 5 defined in the Investment Company Act of 1940, pension or  
 6 profit-sharing trusts, or other financial institutions or  
 7 institutional buyers, whether acting for themselves or as  
 8 trustees; or

9 (g) such other persons not within the intent of this  
 10 subsection ~~(5)~~ (11) as the commissioner may by rule or order  
 11 designate.

12 ~~(7)~~(12) "Issuer" means any person who issues or  
 13 proposes to issue any security, except that with respect to  
 14 certificates of deposit, voting-trust certificates, or  
 15 collateral-trust certificates or with respect to  
 16 certificates of interest or shares in an unincorporated  
 17 investment trust not having a board of directors (or persons  
 18 performing similar functions) or of the fixed, restricted  
 19 management, or unit type, the term "issuer" means the person  
 20 or persons performing the acts and assuming the duties of  
 21 depositor or manager pursuant to the provisions of the trust  
 22 or other agreement or instrument under which the security is  
 23 issued.

24 ~~(8)~~(13) "Nonissuer" means not directly or indirectly  
 25 for the benefit of the issuer.

1       ~~(9)~~(14) "Person", for the purpose of parts 1 through 3  
2 of this chapter, means an individual, a corporation, a  
3 partnership, an association, a joint-stock company, a trust  
4 where the interests of the beneficiaries are evidenced by a  
5 security, an unincorporated organization, a government, or a  
6 political subdivision of a government.

7       (15) "Precious metal" means the following, in coin,  
8 bullion, or other form:

9       (a) silver;

10       (b) gold;

11       (c) platinum;

12       (d) palladium;

13       (e) copper; and

14       (f) such other items as the commissioner may by rule  
15 or order specify.

16       ~~(10)~~(16) (a) "Sale" or "sell" includes every contract  
17 of sale of, contract to sell, or disposition of a security  
18 or interest in a security for value.

19       (b) "Offer" or "offer to sell" includes every attempt  
20 or offer to dispose of or solicitation of an offer to buy a  
21 security or interest in a security for value.

22       (c) Any security given or delivered with or as a bonus  
23 on account of any purchase of securities or any other thing  
24 is considered to constitute part of the subject of the  
25 purchase and to have been offered and sold for value. A

1       purported gift of assessable stock is considered to involve  
2 an offer and sale. Every sale or offer of a warrant or right  
3 to purchase or subscribe to another security of the same or  
4 another issuer, as well as every sale or offer of a security  
5 which gives the holder a present or future right or  
6 privilege to convert into another security of the same or  
7 another issuer, is considered to include an offer of the  
8 other security.

9       ~~(11)~~(17) "Securities Act of 1933", "Securities Exchange  
10 Act of 1934", "Public Utility Holding Company Act of 1935",  
11 and "Investment Company Act of 1940" mean the federal  
12 statutes of those names as amended before or after July 1,  
13 1961.

14       ~~(12)~~(18) "Security" means any note; stock; treasury  
15 stock; bond; commodity investment contract; commodity  
16 option; debenture; evidence of indebtedness; certificate of  
17 interest or participation in any profit-sharing agreement;  
18 collateral-trust certificate; preorganization certificate or  
19 subscription; transferable shares; investment contract;  
20 voting-trust certificate; certificate of deposit for a  
21 security; certificate of interest or participation in an  
22 oil, gas, or mining title or lease or in payments out of  
23 production under such a title or lease; or, in general, any  
24 interest or instrument commonly known as a security or any  
25 certificate of interest or participation in, temporary or

1 interim certificate for, receipt for, guarantee of, or  
 2 warrant or right to subscribe to or purchase any of the  
 3 foregoing. "Security" does not include any insurance or  
 4 endowment policy or annuity contract under which an  
 5 insurance company promises to pay a sum of money either in a  
 6 lump sum or periodically for life or some other specified  
 7 period.

8 ~~(13)~~(19) "State" means any state, territory, or  
 9 possession of the United States, as well as the District of  
 10 Columbia and Puerto Rico."

11 Section 2. Section 30-10-105, MCA, is amended to read:

12 "30-10-105. Exempt transactions. Except as in this  
 13 section expressly provided, 30-10-201 through 30-10-207  
 14 shall not apply to any of the following transactions:

15 (1) any nonissuer isolated transaction, whether  
 16 effected through a broker-dealer or not;

17 (2) (a) any nonissuer distribution of an outstanding  
 18 security by a broker-dealer registered pursuant to 30-10-201  
 19 if:

20 (i) quotations for the securities to be offered or  
 21 sold (or the securities issuable upon exercise of any  
 22 warrant or right to purchase or subscribe to such  
 23 securities) are reported by the automated quotations system  
 24 operated by the national association of securities dealers,  
 25 inc., (NASDAQ) or by any other quotation system approved by

1 the commissioner by rule; or

2 (ii) the security has a fixed maturity or a fixed  
 3 interest or dividend provision and there has been no default  
 4 during the current fiscal year or within the 3 preceding  
 5 fiscal years, or during the existence of the issuer and any  
 6 predecessors if less than 3 years, in the payment of  
 7 principal, interest, or dividends on the security.

8 (b) The commissioner may by order deny or revoke the  
 9 exemption specified in subsection (2)(a) with respect to a  
 10 specific security. Upon the entry of such an order, the  
 11 commissioner shall promptly notify all registered  
 12 broker-dealers that it has been entered and of the reasons  
 13 therefor and that within 15 days of the receipt of a written  
 14 request the matter will be set down for hearing. If no  
 15 hearing is requested and none is ordered by the  
 16 commissioner, the order will remain in effect until it is  
 17 modified or vacated by the commissioner. If a hearing is  
 18 requested or ordered, the commissioner, after notice of and  
 19 opportunity for hearing to all interested persons, may  
 20 modify or vacate the order or extend it until final  
 21 determination. No order under this subsection may operate  
 22 retroactively. No person may be considered to have violated  
 23 parts 1 through 3 of this chapter by reason of any offer or  
 24 sale effected after the entry of an order under this  
 25 subsection if he sustains the burden of proof that he did



1 not know and in the exercise of reasonable care could not  
2 have known of the order.

3 (3) any nonissuer transaction effected by or through a  
4 registered broker-dealer pursuant to an unsolicited order or  
5 offer to buy, but the commissioner may require that the  
6 customer acknowledge upon a specified form that the sale was  
7 unsolicited and that a signed copy of each form be preserved  
8 by the broker-dealer for a specified period;

9 (4) any transaction between the issuer or other person  
10 on whose behalf the offering is made and an underwriter or  
11 among underwriters;

12 (5) any transaction by an executor, administrator,  
13 sheriff, marshal, receiver, trustee in bankruptcy, guardian,  
14 or conservator in the performance of his official duties as  
15 such;

16 (6) any transaction executed by a bona fide pledgee  
17 without any purpose of evading parts 1 through 3 of this  
18 chapter;

19 (7) any offer or sale to a bank, savings institution,  
20 trust company, insurance company, investment company as  
21 defined in the Investment Company Act of 1940, pension or  
22 profit-sharing trust, or other financial institution or  
23 institutional buyer, or to a broker-dealer, whether the  
24 purchaser is acting for itself or in some fiduciary  
25 capacity;

1 (8) (a) any transaction pursuant to an offer made in  
2 this state directed by the offeror to not more than 10  
3 persons (other than those designated in subsection (7))  
4 during any period of 12 consecutive months, if:

5 (i) the seller reasonably believes that all the buyers  
6 are purchasing for investment; and

7 (ii) no commission or other remuneration is paid or  
8 given directly or indirectly for soliciting any prospective  
9 buyer; provided, however, that a commission may be paid to a  
10 registered broker-dealer if the securities involved are  
11 registered with the United States securities and exchange  
12 commission under the federal Securities Act of 1933, as  
13 amended.

14 (b) For the purpose of the exemption provided for in  
15 subsection (8)(a), an offer to sell is made in this state,  
16 whether or not the offeror or any of the offerees is then  
17 present in this state, if the offer either originates from  
18 this state or is directed by the offeror to this state and  
19 received at the place to which it is directed (or at any  
20 post office in this state in the case of a mailed offer).

21 (9) any offer or sale of a preorganization certificate  
22 or subscription if:

23 (a) no commission or other remuneration is paid or  
24 given directly or indirectly for soliciting any prospective  
25 subscriber;

1 (b) the number of subscribers does not exceed 10; and

2 (c) no payment is made by any subscriber;

3 (10) any transaction pursuant to an offer to existing  
4 security holders of the issuer, including persons who at the  
5 time of the transaction are holders of convertible  
6 securities, nontransferable warrants, or transferable  
7 warrants exercisable within not more than 90 days of their  
8 issuance, if:

9 (a) no commission or other remuneration (other than a  
10 standby commission) is paid or given directly or indirectly  
11 for soliciting any security holder in this state; or

12 (b) the issuer first files a notice specifying the  
13 terms of the offer and the commissioner does not by order  
14 disallow either (a) or (b) of this subsection;

15 (11) any offer (but not a sale) of a security for which  
16 registration statements have been filed under both parts 1  
17 through 3 of this chapter and the Securities Act of 1933 if  
18 no stop order or refusal order is in effect and no public  
19 proceeding or examination looking toward such an order is  
20 pending under either law;

21 (12) any offer (but not a sale) of a security for which  
22 a registration statement has been filed under parts 1  
23 through 3 of this chapter and the commissioner in his  
24 discretion does not disallow the offer in writing within 10  
25 days of such filing;

1 (13) the issuance of any stock dividend, whether the  
2 corporation distributing the dividend is the issuer of the  
3 stock or not, if nothing of value is given by stockholders  
4 for the distribution other than the surrender of a right to  
5 a cash dividend where the stockholder can elect to take a  
6 dividend in cash or stock;

7 (14) any transaction incident to a right of conversion  
8 or a statutory or judicially approved reclassification,  
9 recapitalization, reorganization, quasi-reorganization,  
10 stock split, reverse stock split, merger, consolidation, or  
11 sale of assets;

12 (15) any transaction in compliance with such rules as  
13 the commissioner in his discretion may adopt to serve the  
14 purposes of 30-10-102; or

15 (16) any transaction pursuant to the Montana Capital  
16 Company Act, Title 90, chapter 8, provided that a Montana  
17 capital company must first file all disclosure documents,  
18 along with a consent to service of process, with the state  
19 securities commissioner. The commissioner may not charge a  
20 fee for the filing or deposit.

21 (17) the sale of a commodity investment contract traded  
22 on a commodities exchange recognized by the commissioner at  
23 the time of sale;

24 (18) transaction within the exclusive jurisdiction of  
25 the commodity futures trading commission as granted under

1 the Commodity Exchange Act;  
 2 (19) a transaction that:  
 3 (a) involves the purchase of one or more precious  
 4 metals; and  
 5 (b) requires, and under which the purchaser receives  
 6 within 7 calendar days after payment in good funds of any  
 7 portion of the purchase price, physical delivery of the  
 8 quantity of the precious metals purchased. For the purposes  
 9 of this subsection, physical delivery is considered to have  
 10 occurred if, within the 7-day period, the quantity of  
 11 precious metals, whether in specifically segregated or  
 12 fungible bulk, purchased by such payment is delivered into  
 13 the possession of a depository (other than the seller) that:  
 14 (i) (A) is a financial institution (meaning a bank,  
 15 savings institution, or trust company organized under or  
 16 supervised pursuant to the laws of the United States or of  
 17 this state);  
 18 (B) is a depository the warehouse receipts of which  
 19 are recognized for delivery purposes for any commodity on a  
 20 contract market designated by the commodity futures trading  
 21 commission; or  
 22 (C) is a storage facility licensed by the United  
 23 States or any agency of the United States; and  
 24 (ii) issues, and the purchaser receives, a certificate,  
 25 document of title, confirmation, or other instrument

1 evidencing that such quantity of precious metals has been  
 2 delivered to the depository and is being and will continue  
 3 to be held on the purchaser's behalf, free and clear of all  
 4 liens and encumbrances other than:  
 5 (A) liens of the purchaser;  
 6 (B) tax liens;  
 7 (C) liens agreed to by the purchaser; or  
 8 (D) liens of the depository for fees and expenses that  
 9 previously have been disclosed to the purchaser.  
 10 (20) a transaction involving a commodity investment  
 11 contract solely between persons engaged in producing,  
 12 processing, using commercially, or handling as merchants  
 13 each commodity subject to the contract or any byproduct of  
 14 the commodity."  
 15 NEW SECTION. Section 3. Extension of authority. Any  
 16 existing authority of the securities commissioner to make  
 17 rules on the subject of the provisions of this act is  
 18 extended to the provisions of this act.

-End-

STANDING COMMITTEE REPORT

HOUSE

MARCH 10

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 202

do pass

be concurred in

as amended

do not pass

be not concurred in

statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENT AS FOLLOWS:

- 1) Page 2, lines 24 and 25
- Following: "means" on line 24
- Strike: the remainder of line 24 and line 25
- through "commissioner"

Rep. Ray Brandewie to sponsor.

THIRD reading copy ( BLUE color )