

SB 254 INTRODUCED BY WALKER, MEYER, MANNING  
PROVIDE THAT OFFICE OF SECURITIES COMMISSIONER IS A  
CRIMINAL JUSTICE AGENCY  
BY REQUEST OF STATE AUDITOR

1/30	INTRODUCED		
1/30	REFERRED TO BUSINESS & INDUSTRY		
2/11	HEARING		
2/12	COMMITTEE REPORT--BILL PASSED		
2/16	2ND READING PASSED	27	11
2/18	3RD READING PASSED	48	2

	TRANSMITTED TO HOUSE		
2/23	REFERRED TO JUDICIARY		
3/10	HEARING		
3/11	TABLED IN COMMITTEE		

1 *State* BILL NO. *254*  
 2 INTRODUCED BY *Walter Meyer*  
 3 BY REQUEST OF THE STATE AUDITOR

4 *Richard E. Manning*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE  
 6 OFFICE OF SECURITIES COMMISSIONER IS A CRIMINAL JUSTICE  
 7 AGENCY AS DEFINED IN TITLE 44, CHAPTER 5, MCA; AMENDING  
 8 SECTION 30-10-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
 9 DATE."

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

12 Section 1. Section 30-10-304, MCA, is amended to read:  
 13 "30-10-304. Investigations and subpoenas. (1) The  
 14 commissioner in his discretion may:

15 (a) make such public or private investigations or  
 16 examinations within or without this state as he deems  
 17 necessary to determine whether any registration should be  
 18 granted, denied, or revoked or whether any person has  
 19 violated or is about to violate any provision of parts 1  
 20 through 3 of this chapter or any rule or order hereunder or  
 21 to aid in the enforcement of parts 1 through 3 of this  
 22 chapter or in the prescribing of rules and forms hereunder;

23 (b) require or permit any person to file a statement  
 24 in writing, under oath or otherwise as the commissioner may  
 25 determine, as to all the facts and circumstances concerning

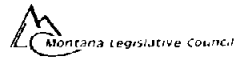
1 the matter to be investigated; and

2 (c) publish information concerning any violation of  
 3 parts 1 through 3 of this chapter or any rule or order  
 4 hereunder.

5 (2) For the purpose of any investigation or proceeding  
 6 under parts 1 through 3 of this chapter, the commissioner or  
 7 any officer designated by him may administer oaths and  
 8 affirmations, subpoena witnesses, compel their attendance,  
 9 take evidence, and require the production of any books,  
 10 papers, correspondence, memoranda, agreements, or other  
 11 documents or records which the commissioner deems relevant  
 12 or material to the inquiry.

13 (3) In case of contumacy by or refusal to obey a  
 14 subpoena issued to any person, any court of competent  
 15 jurisdiction, upon application by the commissioner, may  
 16 issue to that person an order requiring him to appear before  
 17 the commissioner or the officer designated by him, there to  
 18 produce documentary evidence if so ordered or to give  
 19 evidence touching the matter under investigation or in  
 20 question. Any failure to obey the order of the court may be  
 21 punished by the court as a contempt of court.

22 (4) No person is excused from attending and testifying  
 23 or from producing any document or record before the  
 24 commissioner or in obedience to the subpoena of the  
 25 commissioner or any officer designated by him, or in any



-2- INTRODUCED BILL  
 SB-254

1 proceeding instituted by the commissioner, on the ground  
2 that the testimony or evidence (documentary or otherwise)  
3 required of him may tend to incriminate him or subject him  
4 to a penalty or forfeiture; but no compelled testimony or  
5 evidence or any information directly or indirectly derived  
6 from such testimony or evidence may be used against the  
7 witness in any criminal case. Nothing in this section  
8 prohibits the commissioner from granting immunity from  
9 prosecution for or on account of any transaction, matter, or  
10 thing concerning which a witness is compelled to testify if  
11 the commissioner determines, in his sole discretion, that  
12 the ends of justice would be served thereby. Immunity may  
13 not extend to prosecution or punishment for false statements  
14 given pursuant to the subpoena.

15 (5) The office of securities commissioner is a  
16 criminal justice agency as defined in 44-5-103."

17 NEW SECTION. Section 2. Extension of authority. Any  
18 existing authority of the office of securities commissioner  
19 to make rules on the subject of the provisions of this act  
20 is extended to the provisions of this act.

21 NEW SECTION. Section 3. Effective date. This act is  
22 effective on passage and approval.

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APPROVED BY COMM. ON BUSINESS & INDUSTRY

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SENATE BILL NO. *254*  
INTRODUCED BY *Walter Meyer*  
BY REQUEST OF THE STATE AUDITOR

*Richard E. Manning*  
A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT THE OFFICE OF SECURITIES COMMISSIONER IS A CRIMINAL JUSTICE AGENCY AS DEFINED IN TITLE 44, CHAPTER 5, MCA; AMENDING SECTION 30-10-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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"30-10-304. Investigations and subpoenas. (1) The commissioner in his discretion may:

(a) make such public or private investigations or examinations within or without this state as he deems necessary to determine whether any registration should be granted, denied, or revoked or whether any person has violated or is about to violate any provision of parts 1 through 3 of this chapter or any rule or order hereunder or to aid in the enforcement of parts 1 through 3 of this chapter or in the prescribing of rules and forms hereunder;

(b) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner may determine, as to all the facts and circumstances concerning

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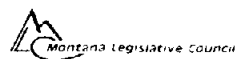
the matter to be investigated; and

(c) publish information concerning any violation of parts 1 through 3 of this chapter or any rule or order hereunder.

(2) For the purpose of any investigation or proceeding under parts 1 through 3 of this chapter, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(3) In case of contumacy by or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring him to appear before the commissioner or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any



1 proceeding instituted by the commissioner, on the ground  
2 that the testimony or evidence (documentary or otherwise)  
3 required of him may tend to incriminate him or subject him  
4 to a penalty or forfeiture; but no compelled testimony or  
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6 from such testimony or evidence may be used against the  
7 witness in any criminal case. Nothing in this section  
8 prohibits the commissioner from granting immunity from  
9 prosecution for or on account of any transaction, matter, or  
10 thing concerning which a witness is compelled to testify if  
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1 *Senate* BILL NO. *254*  
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 3 BY REQUEST OF THE STATE AUDITOR  
 4 *Richard E. Manning*

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