## SENATE BILL NO. 199

## INTRODUCED BY WALKER, GILBERT, MCCORMICK, STRIZICH, HALLIGAN, SMITH, HARP

## IN THE SENATE

	IN THE SENATE
JANUARY 20, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
JANUARY 27, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 28, 1989	PRINTING REPORT.
JANUARY 31, 1989	SECOND READING, DO PASS.
FEBRUARY 1, 1989	ENGROSSING REPORT.
FEBRUARY 2, 1989	THIRD READING, PASSED. AYES, 35; NOES, 13.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 20, 1989	FIRST READING.
MARCH 1, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 86; NOES, 9.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

I INTRODUCED BY HO Worlds Smith HARP

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING THE OFFICE OF
THE SECURITIES COMMISSIONER A CRIMINAL JUSTICE AGENCY BY
STATUTE; AMENDING SECTION 30-10-304, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 30-10-304, MCA, is amended to read:
"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 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.
- 3 (2) (a) For the purpose of any investigation or
  4 proceeding under parts 1 through 3 of this chapter, the
  5 commissioner or any officer designated by him may administer
  6 oaths and affirmations, subpoena witnesses, compel their
  7 attendance, take evidence, and require the production of any
  8 books, papers, correspondence, memoranda, agreements, or
  9 other documents or records which the commissioner deems
  10 relevant or material to the inquiry.
  - (b) The commissioner may issue and apply to enforce subpoenas in this state at the request of a securities agency or administrator of another state if the activities constituting an alleged violation for which the information is sought would be a violation of the Securities Act of Montana if the activities had occurred in this state.
  - 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.

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

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

NEW SECTION. Section 2. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 3. Effective date. [This act] is

1 effective on passage and approval.
-End-

APPROVED BY COMM. ON BUSINESS & INDUSTRY

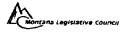
INTRODUCED BY Smith HARP

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- (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 the matter to be investigated; and
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- parts 1 through 3 of this chapter or any rule or order
  hereunder.
  - (2) (a) 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.
    - (b) The commissioner may issue and apply to enforce subpoenas in this state at the request of a securities agency or administrator of another state if the activities constituting an alleged violation for which the information is sought would be a violation of the Securities Act of Montana if the activities had occurred in this state.
  - (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.

## -2- SECOND READING SB199

(4) No person is excused from attending and testifying or from producing any document or record before commissioner or in obedience to the subpoena of the commissioner or any officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no compelled testimony or evidence or any information directly or indirectly derived from such testimony or evidence may be used against the witness in any criminal case. Nothing in this section prohibits the commissioner from granting immunity from prosecution for or on account of any transaction, matter, or thing concerning which a witness is compelled to testify if the commissioner determines, in his sole discretion, that the ends of justice would be served thereby. Immunity may not extend to prosecution or punishment for false statements given pursuant to the subpoena.

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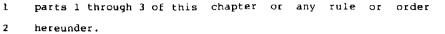
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effective on passage and approval. -End51st Legislature SB 0199/02 SB 0199/02

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23	in writing, under oath or otherwise as the commissioner may
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- 1 (c) publish information concerning any violation of 2 parts 1 through 3 of this chapter or any rule or order 3 hereunder.
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